THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.1060 of 2006

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DATED: 27-01-2006

Between:

K.Prakash . . .Petitioner

And

The Managing Director, APSRTC, Hyderabad,

and two others . . .Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.1060 of 2006

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O R D E R:

This writ petition is filed challenging the proceedings, dated 16-01-2006, through which, the third respondent required the petitioner to show cause as to why he shall not be removed from service.

The main ground urged on behalf of the petitioner is that the show cause notice was issued on the basis of an *ex parte* report, which was submitted even while the stay granted by this Court, in an earlier writ petition, is in force.

When the writ petition came up for admission on 24-01-2006, this Court took note of the circumstances and in fact, directed the appearance of the third respondent.

Pursuant to the directions issued by this Court on 24-01-2006, the Depot Manager, Sanga Reddy, third respondent, appeared and stated that because of his not properly understanding the orders passed by this Court in WPMP.No.27201 of 2005 in WP.No.21230 of 2005, he directed the matter as above.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

This Court stayed further proceedings in pursuance of a notice, dated 14-09-2005, through which, the petitioner was sought to be removed without conducting an enquiry. Thereafter, the Depot Manager appointed the Assistant Manager (Enquiries) as an Enquiry Officer in the proceedings. On the ground that the petitioner did not participate in the enquiry, the Enquiry Officer submitted a report holding that the charge against the petitioner is proved. The impugned show cause notice was issued directing the petitioner as to why he

shall not be removed from service, on the basis of the report of the Enquiry Officer.

The stay granted by this Court was in respect of other proceedings in pursuance of the show cause notice, dated 14-09-2005. It was also indicated that the said show cause notice was not preceded by any departmental enquiry. Thereafter, the third respondent has appointed an Enquiry Officer and a different set of circumstances came into existence. Once an Enquiry Officer is appointed, it cannot be said that the circumstances that prevailed when the show cause notice, dated 14-09-2005, was issued, continue to exist. In fact, the show cause notice, dated 14-09-2005, was rendered infructuous for all practical purposes, with the appointment of an Enquiry Officer. Now that an Enquiry Officer has been appointed, the petitioner deserves to be given an opportunity to appear before him.

Whatever may have been the factors that lead to the submission of an *ex parte* report, the proceedings need to be continued from the stage of the appearance of the petitioner before the Enquiry Officer.

For the foregoing reasons, the writ petition is allowed, and the impugned show cause notice is set aside. It is directed that the Enquiry Officer shall continue the proceedings from the stage of recording the statements of witnesses as well as of the petitioner, and thereafter, submit a report. The Enquiry Officer and the third respondent shall take into account the circumstances that lead to the absence of the petitioner and carefully examine the material that may be submitted by the petitioner in support of his contentions.

There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

27th JANUARY, 2006.

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